

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2007 APR 11 PM 4:55

re patent
application of:
Thomas A. Zdeblick et al.

Serial No. 10/624,981

Filed: July 22, 2003

SPINAL IMPLANTS AND TOOL FOR
INSERTION AND REVISION

MAIL STOP 16

Atty Docket No.:
MSDI-168/PC566.02

April 3, 2007

REQUEST FOR REFUND OF FEES

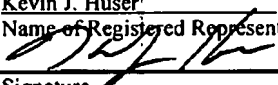
MAIL STOP 16
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On August 15, 2006, a Final Office Action was issued with respect to the above identified patent application, a copy of which is enclosed herewith as Exhibit A. The two month deadline for filing an early response to the Final Office Action in accordance with MPEP §706.07(f)(A) was October 15, 2006, which fell on a Sunday. Pursuant to 37 CFR

I hereby certify that this correspondence is
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on:

April 3, 2007
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Kevin J. Huser
Name of Registered Representative

Signature

April 3, 2007
Date of Signature

§1.7(a), the Applicants filed a response to the Final Office Action on Monday, October 16, 2006, a copy of which is enclosed herewith as Exhibit B. Accordingly, the shortened statutory period for reply should have expired on January 11, 2007, the mailing date of the Advisory Action, which occurred more than three months after the Final Office Action issued. A copy of the Advisory Action is enclosed herewith as Exhibit C.

The one month deadline for responding after the Advisory Action issued was February 11, 2007, which fell on a Sunday. Pursuant to 37 CFR §1.7(a), the Applicants filed a Preliminary Amendment with a Request for Continued Examination in response to the Advisory Action on Monday, February 12, 2007. A petition for a one month extension of time and the requisite fee in the amount of \$120.00 were also submitted on February 12, 2007. However, on February 26, 2007, Deposit Account No. 12-2424 was improperly charged \$900.00 to pay the remainder of the \$1020.00 fee for a three month extension of time.

Considering that the shortened statutory period for reply to the Final Office Action ended on January 11, 2007 when the Advisory Action was issued, the fee in the amount of \$120.00 accompanying the Applicants Response on February 12, 2007 was adequate. Accordingly, the \$900.00 charge for the three month extension fee was improper and it is hereby respectfully requested that the \$900.00 fee be credited to Deposit Account No. 12-2424 pursuant to 37 CFR §1.26.

Respectfully submitted,

By: 

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